

4-926. Judgment for possession (Mobile Home Park Act).

[Sections 47-10-9, 47-8-40 and 47-8-41 NMSA 1978]

STATE OF NEW MEXICO

COUNTY OF _____
_____ COURT

_____, Plaintiff

v.

No. _____

_____, Defendant

**JUDGMENT FOR POSSESSION
(Mobile Home Park Act)¹**

This matter came on for trial on _____, _____ (*date*). The plaintiff appeared (in person) (and) (by attorney _____). The defendant (did not appear) (appeared) (in person) (and) (by attorney _____). Having heard the evidence and argument presented, the court finds in favor of:

☐ the plaintiff

☐ the defendant.

The court further finds that the mobile home:

☐ is subject to the security interest of a first lienholder².

☐ is not subject to the security interest of a first lienholder.

IT IS THEREFORE ORDERED:

1. The premises located in _____ County, New Mexico at:

_____ (name of mobile home park)

_____ (mobile home address)

_____ (mobile home lot or space)

_____, New Mexico _____

be restored to plaintiff;

2. The rental agreement is terminated;

3. (complete applicable)

Plaintiff shall recover from defendant the following amounts:

Rents \$ _____

Damages \$ _____

Attorney fees \$ _____

Costs \$ _____

TOTAL \$ _____

[A hearing on the issue of damages will be held by this court on _____,

_____ at _____ (a.m.) (p.m.)]³

4. A writ of restitution be issued effective _____, _____ (date).

(The following paragraph is used if there is a security interest of a first lienholder on the mobile home)

[5. The plaintiff will promptly serve notice of this judgment on the first lienholder in accordance with civil form 4-928. The cost of removal by the first lienholder shall be paid by the first

lienholder.]]⁴

[6. If this case is appealed the (plaintiff) (defendant) shall _____
_____.]]⁵

Dated: _____
Judge _____

USE NOTE

1. Section 47-10-9 NMSA 1978 provides that not less than 48 hours after entry of a notice of judgment (Civil Form 4-926) and upon execution of a writ of restitution (Civil Form 4-929) the sheriff will oversee the removal of a mobile home.
2. Section 47-10-9 NMSA 1978 provides that prior to issuance of the writ of restitution the court shall make a finding of fact that the mobile home is or is not subject to the security interest of a first lienholder. In those cases where the court finds there is a security agreement on the mobile home, the landlord must give written notice to the first lienholder. *See* Civil Form 4-928 for notice to lienholder of mobile home judgment.
3. Use Civil Form 4-701 if damages are determined at a separate hearing.
4. Use this paragraph only if the court finds that the mobile home is subject to a first lien. Notice shall be substantially in the form approved by the Supreme Court. *See* Civil Form 4-928.
5. Section 47-8-47 NMSA 1978 of the Owner-Resident Relations Act provides for a stay of execution upon appeal. If the defendant appeals a writ of restitution, the court shall require an escrow to be paid into the court within five (5) days after the notice of appeal is filed to stay the execution. If a money judgment is appealed the court may require a deposit with the court or a supersedeas bond be filed. *See* Section 47-8-47 NMSA 1978 for appeals by the plaintiff.

[Former Rule 4-921 SCRA 1986; adopted, effective November 1, 1995; recompiled as Rule 4-926

NMRA and amended, effective September 2, 1997; as amended January 1, 1999.]